

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 19TH DECEMBER 2007 / 28TH AGRAHAYANA 1929

Crl.MC.No. 3805 of 2007()

CC.447/2006 of JUDL. MAGISTRATE OF FIRST CLASS COURT, CHALAKUDY

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PETITIONER: ACCUSED

A.I.SUNIL, S/O.CHANDRAN,
AGED 35 YEARS, THANDENGATTIL HOUSE,
CHERUVALLOOR, KORETTY VILLAGE.

BY ADV. SRI.K.J.SAJI ISAAC
DR.ELIZABETH VARKEY

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 19/12/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3805 of 2007

Dated this the 19th day of December 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 498A I.P.C. The prosecution is pending before the Judicial First Class Magistrate Court, Chalakkudy as C.C.No.447/06. The petitioner was arrested at the crime stage. Investigation is now complete. Final report has been filed. Cognizance has been taken. The petitioner has not been able to appear before the learned Magistrate. Consequently, reckoning him as an absconding accused, the learned Magistrate has issued coercive processes against the petitioner. The petitioner finds such processes chasing him.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence earlier was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007